

103D CONGRESS  
1ST SESSION

# S. 1110

To provide for a National Biological Survey, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 15, 1993

Mr. AKAKA introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To provide for a National Biological Survey, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “National Biological Survey Act of 1993”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purpose.
- Sec. 3. Definitions.

TITLE I—NATIONAL BIOLOGICAL SURVEY

- Sec. 101. National Biological Survey.
- Sec. 102. Critical biological concerns.
- Sec. 103. National Biological Survey Science Council.

- Sec. 104. National Biological Survey Policy Board.
- Sec. 105. Donations.
- Sec. 106. Wetlands inventory.
- Sec. 107. Authorization of appropriations.

TITLE II—RESOURCE MANAGEMENT TRAINING

- Sec. 201. Natural resource management training.
- Sec. 202. Confidentiality of information concerning location of candidate, threatened, or endangered species.
- Sec. 203. Access to private property.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds that—

3 (1) comprehensive and high quality scientific re-  
 4 search and analysis at the Department of the Inte-  
 5 rior must be the foundation for informed and timely  
 6 natural resource decisionmaking;

7 (2) the need for broader and more timely infor-  
 8 mation about the living resources of the United  
 9 States has been readily apparent in the numerous  
 10 controversies and potential economic dislocations  
 11 surrounding decisions concerning endangered  
 12 species;

13 (3) legislatures and agencies at all levels of gov-  
 14 ernment lack the scientific information and analysis  
 15 necessary to solve national, regional, and local natu-  
 16 ral resource conflicts, and to avoid future resource  
 17 problems; and

18 (4) the Federal Government needs an independ-  
 19 ent, nonregulatory source of information about the  
 20 living resources of the United States.

1 (b) PURPOSE.—The purpose of this Act is to provide  
2 a national focus for biological research and monitoring of  
3 the living resources of the United States through the es-  
4 tablishment of a National Biological Survey.

5 **SEC. 3. DEFINITIONS.**

6 As used in this Act:

7 (1) BOARD.—The term “Board” means the Na-  
8 tional Biological Survey Policy Board established  
9 under section 104.

10 (2) COUNCIL.—The term “Council” means the  
11 National Biological Survey Science Council estab-  
12 lished under section 103.

13 (3) DEPARTMENT.—The term “Department”  
14 means the Department of the Interior.

15 (4) FEDERAL, STATE, OR LOCAL AGENCY.—The  
16 term “Federal, State, or local agency” means a unit  
17 of Federal, State, local, or tribal government that  
18 manages or regulates land, water, or wildlife  
19 resources.

20 (5) LIVING RESOURCES.—The term “living re-  
21 sources” means the full range of variety and varia-  
22 bility within and among organisms and the ecological  
23 complexes in which the organisms occur (including  
24 the waters of the United States). The term includes

1 ecosystem or community diversity, species diversity,  
2 and genetic diversity.

3 (6) NONPROFIT ORGANIZATION.—The term  
4 “nonprofit organization” means—

5 (A) an institution of higher education, a  
6 nonprofit scientific or private organization, or a  
7 natural history museum, that maintains or uses  
8 land, water, or wildlife resources; or

9 (B) a nonprofit professional biological soci-  
10 ety or a private nonprofit organization that  
11 identifies, protects, or maintains living re-  
12 sources.

13 (7) SECRETARY.—The term “Secretary” means  
14 the Secretary of the Interior.

15 (8) SURVEY.—The term “Survey” means the  
16 National Biological Survey established under section  
17 101.

## 18 **TITLE I—NATIONAL BIOLOGICAL** 19 **SURVEY**

### 20 **SEC. 101. NATIONAL BIOLOGICAL SURVEY.**

21 (a) ESTABLISHMENT; PURPOSE.—

22 (1) EXISTING ACTIVITIES.—The Secretary shall  
23 establish a National Biological Survey to—

1 (A) consolidate and enhance biological re-  
2 search activities of the Department that are in  
3 existence on the date of enactment of this Act;

4 (B) gather, analyze, and disseminate bio-  
5 logical information necessary for the wise stew-  
6 ardship of the living resources of the United  
7 States; and

8 (C) foster a greater understanding of the  
9 biological systems and benefits that the living  
10 resources provide.

11 (2) OTHER ACTIVITIES.—The Secretary shall  
12 combine with the Survey such other biological re-  
13 search, inventory, and monitoring functions of the  
14 Department as the Secretary determines necessary  
15 or appropriate to provide sound scientific guidance  
16 for the management of Federal lands and natural  
17 resources.

18 (3) DIRECTOR.—The survey shall be headed by  
19 a Director. With the advice and consent of the Sen-  
20 ate, the Secretary shall appoint a Director from  
21 among individuals with academic training and exper-  
22 tise in the biological sciences. The Director shall re-  
23 port to the Assistant Secretary of the Interior for  
24 Fish and Wildlife and Parks.

25 (4) ASSISTANT SECRETARY.—

1 (A) IN GENERAL.—Section 3(a) of the  
2 Fish and Wildlife Act of 1956 (16 U.S.C.  
3 742b(a)) is amended by adding at the end the  
4 following new sentence: “The Director of the  
5 United States Fish and Wildlife Service, the Di-  
6 rector of the National Park Service, and the Di-  
7 rector of the National Biological Survey shall be  
8 subject to the supervision of the Assistant Sec-  
9 retary for Fish and Wildlife and Parks.”.

10 (B) CONFORMING AMENDMENTS.—Sec-  
11 tions 3, 7(a), and 9(a) of such Act (16 U.S.C.  
12 742b, 742f(a), and 742g(a)) are each amended  
13 by striking “Assistant Secretary for Fish and  
14 Wildlife” each place it appears (other than in  
15 the last sentence of section 3(a)) and inserting  
16 “Assistant Secretary for Fish and Wildlife and  
17 Parks”.

18 (b) DUTIES OF THE SECRETARY.—

19 (1) IN GENERAL.—The Secretary, acting  
20 through the Director, shall—

21 (A) inventory, monitor, and report on the  
22 distribution, abundance, health, status, and  
23 trends of the living resources of the United  
24 States;

1 (B) establish a cooperative network of Fed-  
2 eral, State, and local agencies and nonprofit or-  
3 ganizations to assist the Survey in collecting  
4 and maintaining data concerning the distribu-  
5 tion, abundance, health, status, and trends of  
6 the living resources of the United States;

7 (C) develop protocols and methods for the  
8 consistent and systematic collection and analy-  
9 sis of data concerning living resources;

10 (D) establish and maintain systems for  
11 managing information on the living resources of  
12 the United States and obtain data from other  
13 Federal, State, and local agencies and nonprofit  
14 organizations for incorporation into the infor-  
15 mation systems;

16 (E) establish methods to disseminate the  
17 information referred to in subparagraph (D) to  
18 agencies, organizations, and individuals con-  
19 cerned with the care, use, and conservation of  
20 the living resources of the United States;

21 (F) identify deficiencies with respect to in-  
22 formation concerning the distribution, abun-  
23 dance, health, status, and trends of the living  
24 resources of the United States, and organize

1 field surveys and research designed to eliminate  
2 the deficiencies;

3 (G) monitor the effects of ecosystem man-  
4 agement;

5 (H) engage in technology development and  
6 transfer that will enable resource managers in  
7 Federal, State, and local agencies and nonprofit  
8 organizations to develop comprehensive eco-  
9 system management strategies, respond to re-  
10 source problems, and make resource manage-  
11 ment decisions in a timely and efficient manner;

12 (I) integrate information related to ad-  
13 vances in technology development relevant to  
14 the biological diversity of the United States into  
15 the information systems referred to in subpara-  
16 graph (D);

17 (J) provide financial assistance (including  
18 awarding a grant) to, or offer to enter into a  
19 contract with, appropriate Federal, State, or  
20 local agencies or nonprofit organizations to  
21 carry out biological diversity research,  
22 inventorying, monitoring, and information  
23 transfer;

24 (K) provide technical assistance on a reim-  
25 bursable or nonreimbursable basis to Federal,

1 State, or local agencies and nonprofit organiza-  
2 tions that collect and maintain information con-  
3 cerning the living resources of the United  
4 States;

5 (L) engage in cooperative research,  
6 inventorying, monitoring, scientific exchange,  
7 and data dissemination with other countries  
8 and foreign organizations regarding living re-  
9 sources; and

10 (M) prepare a biennial report for public  
11 distribution on the distribution, abundance,  
12 health, status, and trends of the living re-  
13 sources of the United States.

14 (2) USE OF EXISTING DATA.—To the extent  
15 practicable, in carrying out the duties of the Sec-  
16 retary identified in paragraph (1), the Director shall  
17 obtain and use data from all available sources.

18 (3) AVOIDANCE OF DUPLICATION OF DATA.—In  
19 making a determination to provide financial assist-  
20 ance, or in offering to enter into a contract pursuant  
21 to subparagraphs (J) and (K) of paragraph (1), the  
22 Director shall take such action as may be necessary  
23 to ensure that the data generated in association with  
24 the financial assistance, or pursuant to the contract,

1 does not duplicate then current data available to the  
2 Secretary from other sources.

3 **SEC. 102. CRITICAL BIOLOGICAL CONCERNS.**

4 The Secretary shall use information developed  
5 through the Survey to direct resources and respond to the  
6 most critical biological resource concerns of the United  
7 States, as determined by the Secretary.

8 **SEC. 103. NATIONAL BIOLOGICAL SURVEY SCIENCE COUN-**  
9 **CIL.**

10 (a) ESTABLISHMENT.—The Secretary shall establish  
11 an advisory board to be known as the “National Biological  
12 Survey Science Council”.

13 (b) MEMBERSHIP.—

14 (1) APPOINTMENTS.—The Secretary shall ap-  
15 point 17 members to the Council, including a Chair-  
16 person. The Director shall recommend members for  
17 appointment to the Council from among—

18 (A) individuals who use biological diversity  
19 data; and

20 (B) individuals who generate biological di-  
21 versity data.

22 (2) COMPOSITION.—The members of the Coun-  
23 cil shall include representatives of—

24 (A) Federal, State, or local agencies; and

25 (B) nonprofit organizations.

1           (3) PERIOD OF APPOINTMENT; VACANCIES.—  
2       Members of the Council shall be appointed for a  
3       term of 3 years. Any vacancy in the Council shall  
4       not affect the powers of the Council, but shall be  
5       made in the same manner as the initial appointment  
6       was made.

7           (4) INITIAL MEETING.—Not later than 120  
8       days after the date of enactment of this Act, the ini-  
9       tial meeting of the Council shall be held at the call  
10      of the Chairperson.

11          (c) DUTIES OF THE COUNCIL.—The Council shall  
12      recommend policies to the Director concerning—

13           (1) research and data collection undertaken by  
14      the Survey;

15           (2) methods of improving coordination with re-  
16      search entities outside of the Department;

17           (3) establishing and maintaining systems for  
18      managing information collected by the Survey;

19           (4) making the information collected by the  
20      Survey available to other Federal, State, and local  
21      agencies and nonprofit organizations;

22           (5) quality control functions;

23           (6) scientific trends related to the activities of  
24      the Survey;

1           (7) the financial and technical needs of the Sur-  
2     vey;

3           (8) providing the financial and technical assist-  
4     ance referred to in subparagraphs (J) and (K) of  
5     section 101(b)(1);

6           (9) ensuring that the agenda of the Survey fully  
7     reflects critical biological resource concerns of the  
8     United States; and

9           (10) developing collaborative relationships for  
10    biological science with Federal, State, and local  
11    agencies and nonprofit organizations.

12       (d) REPORTS.—The Chairperson of the Council shall  
13    prepare and submit to the Director such reports as the  
14    Director determines appropriate to assist the Director in  
15    carrying out this Act.

16       (e) COMPENSATION.—Members of the Council shall  
17    serve without compensation, except that while away from  
18    home or a regular place of business, each member who  
19    is not otherwise employed by the Federal Government may  
20    be allowed travel expenses, including per diem in lieu of  
21    subsistence, as authorized by section 5703 of title 5, Unit-  
22    ed States Code, for persons employed intermittently in  
23    Government service.

1 **SEC. 104. NATIONAL BIOLOGICAL SURVEY POLICY BOARD.**

2 (a) ESTABLISHMENT.—The Secretary shall establish  
3 a policy board to be known as the “National Biological  
4 Survey Policy Board”.

5 (b) MEMBERSHIP.—The Secretary shall appoint the  
6 members of the Board, including a Chairperson. The Sec-  
7 retary shall appoint 1 senior representative of each of the  
8 bureaus of the Department to serve on the Board. The  
9 Secretary may appoint members from other Federal agen-  
10 cies to serve on the Board.

11 (c) DUTIES OF THE BOARD.—The Board shall—

12 (1) offer guidance to the Survey concerning the  
13 potential effects of biological science on policies car-  
14 ried out by the Survey; and

15 (2) identify priorities for the Survey in order to  
16 facilitate the production of data that is useful for re-  
17 source managers.

18 **SEC. 105. DONATIONS.**

19 (a) IN GENERAL.—The Secretary, acting through the  
20 Director, is authorized to accept for use by the Survey—

21 (1) lands, buildings, equipment, and other con-  
22 tributions, either cash or in-kind, from public and  
23 private sources, and to carry out projects in coopera-  
24 tion with other Federal, State, or local agencies and  
25 private organizations; and

1           (2) the services of individuals or entities, with-  
2           out compensation (except that the Secretary, acting  
3           through the Director, may provide for the incidental  
4           expenses of volunteers, including transportation,  
5           lodging, and subsistence).

6           (b) VOLUNTEERS.—

7           (1) IN GENERAL.—Except as provided in para-  
8           graph (2), a volunteer who provides services pursu-  
9           ant to subsection (a)(2) shall not be deemed a Fed-  
10          eral employee, and shall not be subject to the provi-  
11          sions of law relating to Federal employment.

12          (2) EXCEPTION.—For the purposes of section  
13          1346(b) and chapter 171 of title 28, United States  
14          Code, a volunteer under this subsection shall be con-  
15          sidered a Federal employee.

16 **SEC. 106. WETLANDS INVENTORY.**

17          Notwithstanding section 401(a) of the Emergency  
18          Wetlands Resources Act of 1986 (16 U.S.C. 3931(a)), the  
19          Secretary is authorized to act through the Director in car-  
20          rying out the activities of the National Wetlands Inventory  
21          Project referred to in such subsection.

22 **SEC. 107. AUTHORIZATION OF APPROPRIATIONS.**

23          There are authorized to be appropriated to the De-  
24          partment such funds as may be necessary to carry out  
25          this Act.

1                   **TITLE II—RESOURCE**  
2                   **MANAGEMENT TRAINING**

3 **SEC. 201. NATURAL RESOURCE MANAGEMENT TRAINING.**

4           (a) IN GENERAL.—The Director is authorized to de-  
5 velop and implement a program of natural resource man-  
6 agement training for Federal, State, local, and private  
7 natural resource managers and graduate students in insti-  
8 tutions of higher education who wish to become natural  
9 resource managers.

10          (b) CONTENTS OF TRAINING PROGRAMS.—The train-  
11 ing programs shall include—

12               (1) techniques of collecting and maintaining  
13 data concerning the distribution, abundance, health,  
14 status, and trends of the living resources of the  
15 United States;

16               (2) strategies for comprehensive ecosystem  
17 management that respond to natural resource issues  
18 in a timely and efficient manner; and

19               (3) other areas of training that the Director  
20 considers appropriate.

21 **SEC. 202. CONFIDENTIALITY OF INFORMATION CONCERN-**  
22                   **ING LOCATION OF CANDIDATE, THREAT-**  
23                   **ENED, OR ENDANGERED SPECIES.**

24          (a) DISCLOSURE OF INFORMATION.—Information  
25 concerning the location of any candidate, threatened, or

1 endangered species, as described in the Endangered Spe-  
2 cies Act of 1973 (16 U.S.C. 1531 et seq.), may not be  
3 made available to the public under subchapter II of chap-  
4 ter 5 of title 5, United States Code, or under any other  
5 provision of law, unless the Secretary determines that the  
6 disclosure would—

7           (1) further the purposes of this Act or the En-  
8 dangered Species Act of 1973 (16 U.S.C. 1531 et  
9 seq.);

10           (2) not create a risk of harm to the species or  
11 to the site at which the species is located; and

12           (3) not violate the terms of any confidentiality  
13 agreement that was a basis for receiving the infor-  
14 mation.

15       (b) REQUEST FOR DISCLOSURE BY GOVERNORS.—  
16 Notwithstanding subsection (a), if the Governor of a State  
17 submits a written request to the Secretary for the location  
18 of a site within the State of the Governor in which a can-  
19 didate, threatened, or endangered species is located, and  
20 the request states—

21           (1) the specific site or area for which the Gov-  
22 ernor is seeking information;

23           (2) the purpose for which the Governor is seek-  
24 ing the information; and

1           (3) a commitment by the Governor to protect  
2           the confidentiality of the information to the extent  
3           necessary to prevent harm or commercial exploi-  
4           tation of the species or the site at which the species  
5           is located,

6           the Secretary shall provide the Governor the requested in-  
7           formation concerning the location of the species within the  
8           State, unless the Secretary determines that the release  
9           would violate the terms of a confidentiality agreement that  
10          was a basis for receiving the information.

11       **SEC. 203. ACCESS TO PRIVATE PROPERTY.**

12          The Secretary may—

13               (1) enter into an agreement with an owner or  
14               manager of private land or water to provide a basis  
15               for the study of living resources on the land or  
16               water; and

17               (2) as a condition of the access referred to in  
18               paragraph (1), agree to indemnify and hold harmless  
19               the owner or manager from all actions undertaken  
20               as a part of or related to the study without regard  
21               to the availability of appropriations for the purpose  
22               referred to in this paragraph.

○